

ORDINANCE NO. Z-98-03-12-9A1

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF ROUND ROCK, TEXAS ADOPTED IN SECTION 11.305(2), CODE OF ORDINANCES (1995 EDITION), CITY OF ROUND ROCK, TEXAS, AND MAKING THIS AMENDMENT A PART OF THE SAID OFFICIAL ZONING MAP, TO WIT: TO REZONE 10.0720 ACRES OF LAND SITUATED IN THE P.A. HOLDER SURVEY, ABSTRACT NO. 297, IN ROUND ROCK, WILLIAMSON COUNTY, TEXAS FROM DISTRICT I-1 (GENERAL INDUSTRIAL) TO PLANNED UNIT DEVELOPMENT (PUD) DISTRICT NO. 34.

WHEREAS, an application has been made to the City Council of the City of Round Rock, Texas to amend the Official Zoning Map to zone the property described in Exhibit "A", attached hereto and incorporated herein, as District Planned Unit Development (PUD) No. 34, said Exhibit being attached hereto and incorporated herein, and

WHEREAS, the City Council has submitted the requested change in the Official Zoning Map to the Planning and Zoning Commission for its recommendation and report, and

WHEREAS, the Planning and Zoning Commission held a public hearing concerning the requested change on the 18th day of February, 1998, following lawful publication of the notice of said public hearing, and

WHEREAS, after considering the public testimony received at such hearing, the Planning and Zoning Commission has recommended that the Official Zoning Map be amended so that the zoning classification of the property described in Exhibit "A" be changed to District PUD No. 34, and

WHEREAS, on the 12th day of March, 1998, after proper notification, the City Council held a public hearing on the requested amendment, and

WHEREAS, the City Council determines that the zoning provided for herein promotes the health, safety, morals and protects and preserves the general welfare of the community; and

WHEREAS, each and every requirement set forth in Chapter 211, Sub-Chapter A., Texas Local Government Code, and Section 11.300, Code of Ordinances (1995 Edition), City of Round Rock, Texas concerning public notices, hearings, and other procedural matters has been fully complied with, Now Therefore

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ROUND ROCK, TEXAS, THAT:

I.

That the City Council has hereby determined the Planned Unit Development (PUD) No. 34 meets the following goals and objectives:

- (1) The development in PUD No. 34 is equal to or superior to development that would occur under the standard ordinance requirements.
- (2) P.U.D. No. 34 is in harmony with the general purposes, goals, objectives and standards of the General Plan.
- (3) P.U.D. No. 34 does not have an undue adverse effect upon adjacent property, the character of the neighborhood, traffic conditions, parking, utilities or any other matters affecting the public health, safety and general welfare.
- (4) P.U.D. No. 34 will be adequately provisioned by essential public facilities and services including streets, parking, drainage, water, wastewater facilities, and other necessary utilities.
- (5) P.U.D. No. 34 will be constructed, arranged and maintained so as not to dominate, by scale and massing of structures, the immediate neighboring properties or interfere with their development or use in accordance with any existing zoning district.

II.

That the Official Zoning Map adopted in Section 11.305(2), Code of Ordinances (1995 Edition), City of Round Rock, Texas is hereby amended so that the zoning classification of the property described in Exhibit "A", attached hereto and incorporated herein shall be, and is hereafter designated as District Planned Unit Development (PUD) No. 34, and that the Mayor is hereby authorized and directed to enter into the Agreement and Development Plan for PUD No. 32 attached hereto as Exhibit "B", which agreement shall govern the development and use of said property.

III.

A. All ordinances, parts of ordinances, or resolutions in conflict herewith are expressly repealed.

B. The invalidity of any section or provision of this ordinance shall not invalidate other sections or provisions thereof.

C. The City Council hereby finds and declares that written notice of the date, hour, place and subject of the meeting at which this Ordinance was adopted was posted and that such meeting was open to the public as required by law at all times during which this Ordinance and the subject matter hereof were discussed, considered and formally acted upon, all as required by the Open Meetings Act, Chapter 551, Texas Government Code, as amended, and the Act.

Alternative 1.

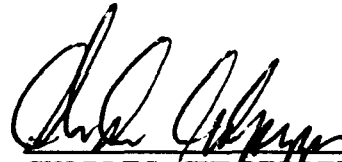
By motion duly made, seconded and passed with an affirmative vote of all the Council members present, the requirement for reading this ordinance on two separate days was dispensed with.

READ, PASSED, and ADOPTED on first reading this 12th day of March, 1998.

Alternative 2.

READ and APPROVED on first reading this the _____ day of _____, 1998.

READ, APPROVED and ADOPTED on second reading this the _____ day of _____, 1998.



CHARLES CULPEPPER, Mayor
City of Round Rock, Texas

ATTEST:

Joanne Land
JOANNE LAND, City Secretary

**AGREEMENT AND DEVELOPMENT PLAN
PROFESSIONAL TESTING (EMI) PLANNED UNIT DEVELOPMENT NO. 34**

THE STATE OF TEXAS

COUNTY OF WILLIAMSON

THIS AGREEMENT and Development Plan is made and entered by and between the **City of Round Rock, Texas**, a Texas municipal corporation, having its offices at 221 East Main Street, Round Rock, Texas 78664 (hereinafter referred to as the "City"), and EMI Leasing Partners, L.P., (hereinafter referred to as the "Owner").

WHEREAS, the Owner has submitted a request to the City to rezone approximately 10.0720 acres of land as a Planned Unit Development ("PUD"), said acreage being more particularly described by metes and bounds in **Exhibit "A"**, attached hereto and made a part hereof (hereinafter referred to as the "Property"), and

WHEREAS, pursuant to Chapter 11, Section 11.316(8), Code of Ordinances (1995 Edition), City of Round Rock, Texas, the Owner has submitted a Development Plan setting forth the development conditions and requirements within the PUD, which Development Plan is contained in Section II of this Agreement; and

WHEREAS, on FEBRUARY 18, 1998, the City's Planning and Zoning Commission recommended approval of the Owner's application for a PUD.

NOW THEREFORE BY THIS AGREEMENT WITNESSETH that, in consideration of the covenants and conditions set forth herein, the City and the Owner agree as follows:

I.

GENERAL PROVISIONS

1. CONFORMITY WITH DEVELOPMENT PLAN

All uses and development within the property shall generally conform to the Development Plan set forth in Section II herein.

2. CHANGES AND MODIFICATIONS

No changes or modifications will be made to this Agreement or the Development Plan unless all provisions pertaining to changes or modifications as stated in Sections 8.1 and 8.2 below are followed.

3. ZONING VIOLATION

The Owner understands that any person, firm, corporation or other entity violating any conditions or terms of the Development Plan shall be subject to any and all penalties for the violation of any zoning ordinance as stated in Section 1.601, Code of Ordinances, (1995 Edition), City of Round Rock, Texas, as amended.

4. LIENHOLDER CONSENT

That the lienholder of record has consented to this Agreement and Development Plan, including any and all dedications to the public. A lienholder consent is attached hereto and incorporated herein as **Exhibit "B"**.

5. MISCELLANEOUS PROVISIONS

5.1 Assignment.

Neither party may assign its rights and obligations under this Agreement without having first obtained the prior written consent of the other which consent shall not be unreasonably withheld. This section shall not prevent the Owner from selling the Property or portions of the Property, together with all development rights and obligations contained in this Agreement and Development Plan.

5.2 Necessary Documents and Actions.

Each party agrees to execute and deliver all such other and further instruments and undertake such actions as are or may become necessary or convenient to effectuate the purposes and intent of this Agreement.

5.3 Severability.

In case one or more provisions contained herein are deemed invalid, illegal or unenforceable in any respect such invalidity, illegality or unenforceability shall not affect any other provisions hereof and in such event, this agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

5.4 Entire Agreement.

This Agreement constitutes the entire agreement of the parties and supersedes any prior or contemporaneous oral or written understandings or representations of the parties respecting the subject matter hereof.

5.5 Applicable Law.

This Agreement shall be construed under and in accordance with the laws of the State of Texas.

5.6 Venue.

All obligations of the parties created hereunder are performable in Williamson County, Texas and venue for any action arising hereunder shall be in Williamson County.

5.7 No Third Party Beneficiaries.

Nothing in this Agreement, express or implied, is intended to confer upon any person or entity, other than the parties hereto (and their respective successors and assigns), any rights, benefits or remedies under or by reason of this Agreement.

5.8 Duplicate Originals.

This Agreement may be executed in duplicate original, each of equal dignity.

5.9 Notices.

Until changed by written notice thereof any notice required under this Agreement may be given to the respective parties, by certified mail , postage prepaid or by hand delivery to the address of the other party shown below:

OWNER

EMI Leasing Partners, L.P.
1303 W. Industrial Blvd.
Round Rock, Texas 78681

CITY OF ROUND ROCK

City of Round Rock, Texas
221 East Main Street
Round Rock, Texas 78664

Attn.: Director of Planning

5.10 Effective Date.

This Agreement shall be effective from and after the date of due execution hereof by all parties.

5.11 Appeals of Administrative Decisions.

Administrative decisions provided for in this Agreement may be appealed to the Development Review Board in writing within 15 days following receipt by the Owner of the written confirmation of the decision.

5.12 Binding Effect.

This Agreement and the Development Plan binds and benefits the Owner and its successors and assigns.

II.

DEVELOPMENT PLAN

1 DEFINITIONS

Words and terms used herein shall have their usual force and meaning, or as defined in the Code of Ordinances (1995 Edition), City of Round Rock, Texas, hereinafter referred to as "the Code".

2. PROPERTY

This Development Plan ("Plan") covers approximately **10.0720 acres** of land, located within the city limits of Round Rock, Texas, and more particularly described by metes and bounds in **Exhibit "A"**, attached hereto.

3. PURPOSE

The purpose of this Plan is to insure a Planned Unit Development ("PUD") that 1) is equal to or superior to development that would occur under the standard ordinance requirements, 2) is in harmony with the General Plan as amended, 3) does not have an undue adverse affect upon adjacent property, the character of the neighborhood, traffic conditions, parking, utilities or any other matters affecting the public health, safety and welfare, 4) is adequately provisioned by essential public facilities and services, and 5) will be developed and maintained so as to not dominate, by scale or massing of structures, the immediate neighboring properties or interfere with their development or use in accordance with any existing zoning district.

4. APPLICABILITY OF CITY ORDINANCES

4.1 Zoning and Subdivision Ordinances

The Property shall be regulated for purposes of zoning and subdivision by this Plan. All aspects not specifically covered by this Plan shall be regulated by applicable sections of the Code.

4.2 Other Ordinances

All other Ordinances within the Code shall apply to the Property, except as clearly modified by this Plan.

5. PERMITTED USES

The Property shall be used and developed for the uses set forth in **Exhibit "C"**, attached hereto and incorporated herein.

6. LANDSCAPING and BUFFERING

Landscaping and buffering shall be modified in **Exhibit "C"**, attached hereto, as applicable to each parcel and its designated use.

7. UNDERGROUND UTILITY SERVICE

Except where approved in writing by the Director of Public Works, all electrical, telephone and cablevision distribution and service lines, other than overhead lines which are three phase or larger, shall be placed underground.

8. CHANGES TO AGREEMENT AND DEVELOPMENT PLAN

8.1 Minor Changes

Minor changes to this Agreement or Plan which do not substantially change this Plan may be approved administratively, if approved in writing, by the Director of Planning and Community Development, and the City Attorney.

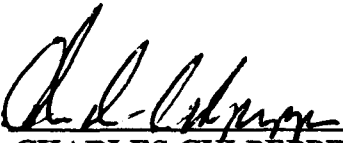
8.2 Major Changes

Major changes shall be resubmitted following the same procedure required by the original PUD application.

9. **GENERAL PLAN AMENDED**


The Round Rock General Plan 1990 is hereby amended to reflect the provisions of this Agreement and Development Plan.

CITY OF ROUND ROCK, TEXAS

By: 
CHARLES CULPEPPER, Mayor
City of Round Rock, Texas

Date: 3-12-98

EMI LEASING PARTNERS, L.P.

By: 
Its: PRESIDENT, (EMILAS) PRODUCTS CORPORATION
GENERAL PARTNER

Date: 7/20/98

FIELD NOTES

EXHIBIT "A"

10.072 ACRES OF LAND, MORE OR LESS, OUT OF THE P.A. HOLDER SURVEY, ABSTRACT NO. 297, IN WILLIAMSON COUNTY, TEXAS, APPROXIMATELY 8.5 ACRES BEING OUT OF THE 73.78 ACRE TRACT CONVEYED TO PHILLIP WARNER IN VOLUME 491, PAGE 111, AND THE REMAINDER OF ABOUT 1.572 ACRES BEING OUT OF A 69.81 ACRE TRACT CONVEYED TO PHILLIP WARNER IN VOLUME 369, PAGE 299, DEED RECORDS OF WILLIAMSON COUNTY, TEXAS, AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

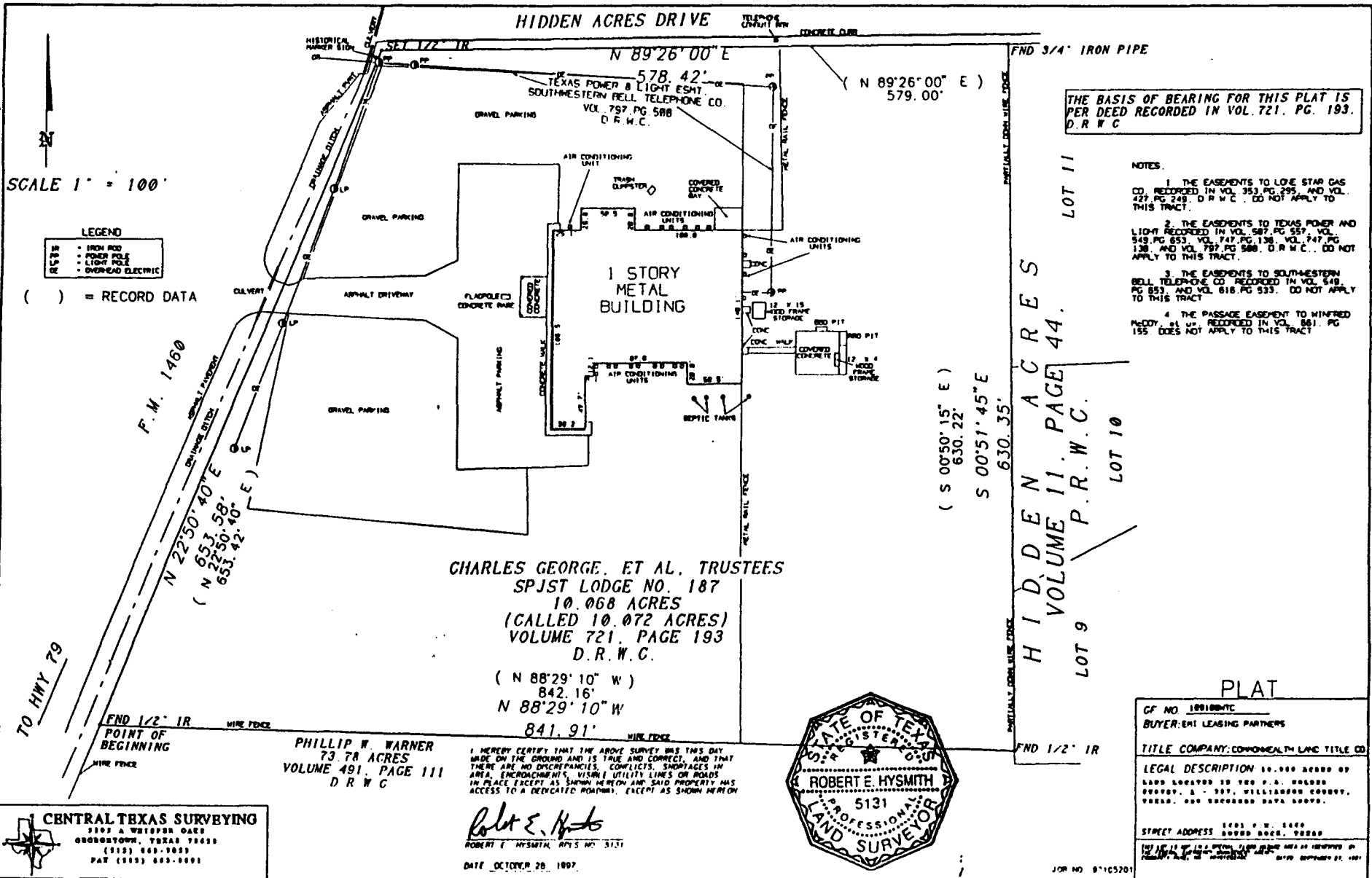
BEGINNING at an iron pin set at or near the Northwest corner of the said 73.78 acre tract, in the East line of F.M. 1460, and in the South line of Hidden Acres Drive. The Northwest corner of the P.A. Holder Survey bears N 50 degrees 46 minutes W, 6011.7 feet;

THENCE N 89 degrees 26 minutes E, 579.00 feet with the fenced South line of Hidden Acres Drive to a 3/4 inch galvanized iron pipe found at the Northwest corner of Lot 11 of Hidden Acres, a subdivision recorded in Volume 11, Page 44, Plat Records of Williamson County, Texas;

THENCE S 00 degrees 50 minutes 15 seconds E at 567.99 feet pass an iron pin beside a fence corner at the Southwest corner of Lot 9 of Hidden Acres, continuing in all 630.22 feet to set an iron pin;

THENCE N 88 degrees 29 minutes 10 seconds W crossing the common line between the 73.78 acres and the 69.81 acres, continuing in all 842.16 feet to set an iron pin in the West line of the 69.81 acres and in the East line of F.M. 1460;

THENCE N 22 degrees 50 minutes 40 seconds E, 653.42 feet with the East line of the road, passing the North corner of the 69.81 acres, to the POINT OF BEGINNING.



SCALE 1" = 100'

HIDDEN ACRES DRIVE

N 89°26'00" E

578.42'
 TEXAS POWER & LIGHT ESMT.
 SOUTHWESTERN BELL TELEPHONE CO.
 VOL. 757, PG. 588
 D.R.W.C.

(N 89°26'00" E)
 579.00'

FND 3/4" IRON PIPE

THE BASIS OF BEARING FOR THIS PLAT IS PER DEED RECORDED IN VOL. 721, PG. 193, D.R.W.C.

LOT 11

HIDDEN ACRES

VOLUME 11, PAGE 44.

P.R.W.C.

LOT 10

(S 00°50'15" E)
 630.22'

S 00°51'45" E
 630.35'

CHARLES GEORGE, ET AL., TRUSTEES
 SPJST LODGE NO. 187
 10.068 ACRES
 (CALLED 10.072 ACRES)
 VOLUME 721, PAGE 193
 D.R.W.C.

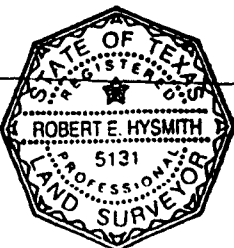
(N 88°29'10" W)
 842.16'
 N 88°29'10" W
 841.91'

PHILLIP W. WARNER
 73.78 ACRES
 VOLUME 491, PAGE 111
 D.R.W.C.

I HEREBY CERTIFY THAT THE ABOVE SURVEY WAS THIS DAY MADE ON THE GROUND AND IS TRUE AND CORRECT, AND THAT THERE ARE NO DISCREPANCIES, CONFLICTS, SHORTAGES IN AREA, ENCROACHMENTS, VISIBLE UTILITY LINES OR ROADS IN PLACE EXCEPT AS SHOWN HEREON AND SAID PROPERTY HAS ACCESS TO A DEDICATED ROADWAY, EXCEPT AS SHOWN HEREON

Robert E. Hysmith
 ROBERT E. HYSMITH, R.T.S. NO. 5131

DATE OCTOBER 28, 1997.



CENTRAL TEXAS SURVEYING
 2107 A WHISPER OAKS
 GEORGETOWN, TEXAS 75121
 (512) 663-7000
 FAX (512) 663-6691

EXHIBIT B

STATE OF TEXAS §
COUNTY OF WILLIAMSON §

That Chase Bank of Texas Organized and existing under the laws of the State of Texas, acting herein by and through its Vice President, Jeff Fuller, Being the holder of a lien by way of Deed of Trust Recorded in Volume _____, Page _____, of the Official Records of Williamson County, Texas does hereby consent to the Agreement and Development Plan of 10.072 Acres of land situated in the City of Round Rock, Williamson County, Texas, and does further hereby join, approve, and consent to all provisions shown herein.

Chase Bank of Texas

By: Jeff Fuller
JEFF FULLER, its Vice President
(Typed Name)

THE STATE OF TEXAS §
COUNTY OF WILLIAMSON §

This instrument was acknowledged before me on the 9th day of MARCH, 1998,
by JEFF FULLER, of CHASE BANK, on
behalf of said FINANCIAL INSTITUTION of TEXAS, N.A.

Charisse Wadsworth
Notary Public, State of Texas
Printed Name: CHARISSE WADSWORTH
My commission expires: 4/19/2001

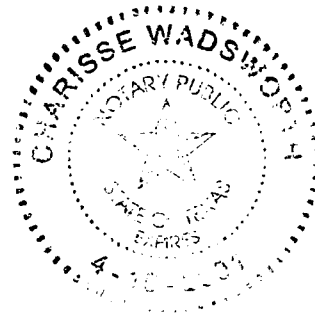


EXHIBIT "C"

Permitted Uses

1. **PERMITTED USE:** Any use permitted under current zoning classification Industrial (I-1), including, but not limited to, office, office/warehouse, research, testing, and development, light manufacturing and assembly, technical schools, institutions and day care, all subject to the prohibitions and restrictions listed below. Accessory retail sales incidental to a permitted principal use shall also be permitted. The Director of Planning shall be the final interpreter of uses not clearly permitted or prohibited. A copy of the interpretations shall be provided to the Owner.

2. **PROHIBITED USES:** No portion of the PUD shall be used for any of the following activities or uses:

2.1 Waste storage or recycling (other than internally generated waste from a permitted activity);

2.2 Principal business of storing bulk chemicals or petrochemicals;

2.3 Retail sale to the general public of alcoholic beverages for either on or off-premises consumption;

2.4 Transient lodging not contained within a building, including, but not limited to, recreational vehicle parks and campgrounds.

2.5 Sexually Oriented Businesses, as defined by the Code;

2.6 Salvage yard or junkyard;

2.7 Concrete or asphalt batch plant, or any other heavy industrial use regardless of whether or not conducted in an enclosed building;

2.8 Trucking depot or bulk distribution facility; or

2.9 Construction equipment sales, leasing and storage.

3. **OUTDOOR STORAGE:** Any permitted areas of outdoor storage of materials or equipment and loading dock areas shall provide a visual screen from abutting properties or public streets in

accordance with the landscaping and screening requirements of the Code.

4. LANDSCAPING AND BUFFERING: Owner shall maintain a twenty (20') foot wide, natural landscaped buffer along the easternmost border of the property which preserves the natural tree cover wherever possible.